

ELECTION AND REMARKS

A restriction and/or election requirement was made to pending claims 1-34. The claims were placed into the following five groups:

Group I (claims 1-9, 29, 30-34) drawn to an attenuated bacterium.

Group II (claims 10-15) drawn to a method of identifying an antibacterial drug using a polypeptide.

Group III (claims 16-20) drawn to a method of identifying an antibacterial drug using a polynucleotide.

Group IV (claims 21-22) drawn to a nucleic acid.

Group V (claims 23-28) drawn to a method for determining degree of virulence in a pathogen.

In response to this restriction/election requirement Applicant hereby elects the claims of Group V (claims 23-28) drawn to a method for determining degree of virulence in a pathogen, without traverse.

The Examiner has further requested that Applicant make an election of a single gene species for Group V in the event that no generic claim is found to be allowable. The Examiner provides that "[u]pon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all of the limitations of an allowed generic claim. In response, Applicant hereby elects the gene VIR5.

Claims 23 and 26 have been identified by the Examiner as being generic. All of the claims read on the elected species.

If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117 if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date October 22, 2007

/Rosemary Kellogg/
Rosemary Kellogg, #39,726
Swanson & Bratschun, L.L.C.
8210 SouthPark Terrace
Littleton, Colorado 80120
Telephone: (303) 268-0066
Facsimile: (303) 268-0065

S:\ClientFolders\Mewburn\MERLION\ME.01 10536606\Amend_Remarks.doc